

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
WEST COAST DOOR, INC.,

Appellant,

V.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB 82-124

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the issuance of a \$250 civil penalty for the alleged violation of Section 9.03(b)(2) of Regulation I, came before the Pollution Control Hearings Board, Gayle Rothrock, Chairman, and Lawrence J. Faulk, (presiding), convened at Lacey, Washington, on February 9, 1983. Respondent elected an informal hearing pursuant to RCW 43.21B.230.

Appellant was represented by its President, William B. Swensen.
Respondent was represented by its attorney, Keith D. McGoffin.

Having heard the testimony, having examined the exhibits, and

1 having considered the contentions of the parties, the Board makes these

2 FINDINGS OF FACT

3 I

4 Pursuant to RCW 43.21B.260, respondent has filed with this Board a
5 certified copy of its Regulation I and amendments thereto, which are
6 officially noticed.

7 II

8 On September 1, 1982, at about 10:35 a.m., respondent's inspector
9 noticed a dense black smoke rising from appellant's hog fuel boiler
10 stack at 3102 Pine Street in Tacoma. After positioning himself, he
11 observed the plume and recorded opacities ranging from 25 percent to
12 60 percent for 7 and 1/2 minutes of 37 minutes observed. The
13 inspector served Notice of Violation No. 18864 on September 1, 1982,
14 to Donna Carlson, secretary for West Coast Door, Inc. On September 9,
15 1982, respondent mailed a Notice and Order of Civil Penalty of \$250
16 for the alleged violation of Section 9.03(b)(2) of respondent's
17 Regulation I. From this appellant appeals.

18 III

19 Section 9.03(b)(2) of respondent's Regulation I makes it unlawful
20 for any person to cause or allow the emission of any air contaminant
21 for a period totaling more than 3 minutes in any one hour which is of
22 an opacity equal to or greater than 20 percent. Section 3.29 of
23 Regulation I provides for a civil penalty of up to \$250 per day for
24 each violation of Regulation I. The appellant has been cited on four
25 prior occasions for violation of the same Regulation, Section 9.03,
26 from its boiler stack.

IV

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

Appellant contends that the smoke emission in question was gray rather than black. The regulation in question, Section 9.03(b)(2) does not turn on this distinction, however. An emission of greater than 20 percent opacity violates the rule notwithstanding its color or shade.

Appellant also contends they occasionally have emissions during start-up when boilers are cold and when a uncontrollable mixture of all the fuels have been introduced to the fire box.

However, appellant did not follow the Section 9.16 procedure¹ of

1. Emissions exceeding any of the limits established by this Regulation as a direct result of start-ups, periodic shutdown, or unavoidable and unforeseeable upset or breakdown of process equipment or control apparatus, shall not be deemed in violation provided the following requirements are met:

(1) The owner or operator of such process or equipment shall immediately notify the Agency of such occurrence, together with the pertinent facts relating thereto regarding nature of problem as well as time, date, duration and anticipated influence on emissions from the source.

(2) The owner or operator shall upon the request of the Control Officer, submit a full report including the known causes and the preventive measures to be taken to minimize or eliminate a re-occurrence.

(Emphasis added.)

1 Regulation I for reporting upset or breakdown situations as a result
2 of start-ups and therefore this provision does not apply.

3 II

4 Accordingly, the Board finds that appellant violated Section
5 9.03(b)(2) of Regulation I as alleged on September 1, 1982, by causing
6 or allowing an air emission of smoke in excess of the limits
7 established by the Regulation.

8 III

9 In light of appellant's violation of the same Regulation on four
10 prior occasions, the amount of civil penalty assessed was reasonable.

11 IV

12 Any Finding of Fact which should be deemed a Conclusion of Law is
13 hereby adopted as such.

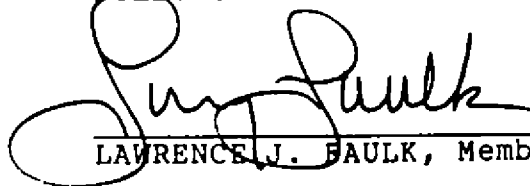
14 From these Conclusions the Board enters the following
15
16
17
18
19
20
21
22
23
24
25

ORDER

The subject Notice and Order of Civil Penalty Number 5624 for \$250 is affirmed.

DATED this 11th day of March, 1983.

POLLUTION CONTROL HEARINGS BOARD


LAWRENCE J. FAULK, Member


GAYLE ROTHROCK, Chairman